

**THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

DAVIS DON CARPENTER, ADC #120443

PLAINTIFF

v.

Case No. 5:19-cv-00169-KGB-PSH

WENDY KELLEY, Director, ADC, *et al.*

DEFENDANTS

ORDER

Before the Court are the June 21, 2019, Proposed Findings and Partial Recommendation (“First Recommendation”) and October 29, 2019, Proposed Findings and Partial Recommendation (“Second Recommendation”) submitted by United States Magistrate Judge Patricia S. Harris (Dkt. Nos. 11, 25). For the reasons set forth below, the Court adopts both of Judge Harris’ Partial Recommended Dispositions.

I. June 21, 2019, Proposed Findings And Partial Recommendation

In her First Recommendation, Judge Harris recommends that plaintiff Davis Don Carpenter’s motions for a temporary restraining order and preliminary injunction be denied. Mr. Carpenter has filed timely objections to this First Recommendation (Dkt. No. 12). After careful consideration of the First Recommendation, Mr. Carpenter’s objections, and a de novo review of the record, the Court finds no reason to alter or reject Judge Harris’ First Recommendation.

The Court writes separately to address Mr. Carpenter’s objections. Mr. Carpenter argues that he would suffer irreparable injury in the absence of an injunction because his claims for damages would be moot if he is transferred to another facility. Contrary to Mr. Carpenter’s assertions, however, a transfer would not moot his claims for monetary damages against defendants in their individual capacities. Therefore, the Court agrees with Judge Harris that Mr. Carpenter has not met his burden to show that he faces irreparable harm without an injunction.

Accordingly, the Court adopts the First Recommendation in its entirety (Dkt. No. 11). Mr. Carpenter's motion and amended motion for an emergency ex parte temporary restraining order and/or preliminary injunction are denied (Dkt. Nos. 2, 7).

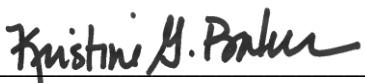
II. October 29, 2019, Proposed Findings And Partial Recommendation

In her Second Recommendation, Judge Harris recommends that Mr. Carpenter's claims against the Doe defendants be dismissed without prejudice for failure to comply with Rule 4(m) of the Federal Rules of Civil Procedure (Dkt. No. 25). No objections have been filed to this Second Recommendation, and the deadline for filing objections has since passed. After careful consideration, the Court concludes that the October 29, 2019, Second Recommendation should be, and hereby is, approved and adopted in its entirety (Dkt. No. 25). The Court dismisses without prejudice Mr. Carpenter's claims against the Doe defendants.

III. Conclusion

In sum, the Court adopts both the June 21, 2019, and the October 29, 2019, Proposed Findings and Partial Recommendation (Dkt. Nos. 11, 25). The Court denies Mr. Carpenter's motion and amended motion for an emergency ex parte temporary restraining order and/or preliminary injunction (Dkt. Nos. 2, 7). The Court also dismisses without prejudice Mr. Carpenter's claims against the Doe defendants.

It is so ordered this 22nd of January, 2020.



Kristine G. Baker
United States District Judge